FOR MYSORE STATE

Development

(1952) Department.

RT SERIES.

G.O. NO. 521

Dated 14. 7. 52

[Despatch Abstract.]

Textiles – Mill Cloth – Bellary dt
Hospet Taluk and Town – Retail dealers
P. Venkata Setty & Sons – Stopping mill
Cloth quotas for one month – appeal

R.859

-56498-

From Sri D.R.Sundaram, I.A.S.,
Collector, Bellary.

To
The Secretary to Government,
Development Department,
Fort St.George, Madras.

Through
The Director of Controlled
Commodities, Madras.

* *

Rc. No.1689/51 T-1 Dated 13-5-52

Sir,

Textiles - Mill cloth - Bellary district - Hospet taluk and town - Retail dealer - M/S P.Venkappa Setty and Sons - Stopping mill cloth quotas for one month - appeal to Government - Remarks submitted.

Refce:- Government Development Department Endorsement No.48952 M-1/52 -1 dated 8.2.52.

The contentions of the appellant in paragraphs 5(b) and 6 of his petition communicated with the Government endorsement cited are baseless as explained below:

In this office Rc.1689/51 T-1 dated 21.2.52 a notice was issued to the appellant detailing the charge against him and directing him to show cause why his mill cloth quotas should not be stopped for two months, for the charge mentioned therein, and he was informed that he could adduce any evidence oral or ducumentary on his behalf. With reference to this notice the appellant submitted his explanation in his peitition dated 27.2.52 but he did not ask for any personal enquiry. His explanation was, therefore, considered in the light of the statements of the complainant and the witness but the complainant was not personally enquired into or heard as he did not ask for it in his written explanation dated 27.2.52. An opportunity to cross-examine the witness as alleged by the appellant was also not given to him as the enquiry was not a judicial one and as the procedure laid down in G.O.Ms.No.3155 dated 9.7.51 in the matter of awarding departmental punishments does not contemplate such cross examination.

2. The points urged by the appellant in paragraphs 1 to 6(a) and 7 do not call for any remarks.

4. The relavant files (L.Dis.1869/51 T-1 dated 3.4.52 containing 24 pages C.F. and six pages N.F. and L.Dis.926/52 -T1 dated 26.4.52 containing eight pages C.F. and four pages N.F.) are submitted for perusal and return when done with.

For Collector.

Encls. 1. L.Dis.1869/51 dated 3.4.52
2. L.Dis.926/52 dated 26.4.52.

Copy submitted to the Secretary to Government Development department Fort St.George, Madras direct for information.

THIRD ASST. SECRETARY TO GOVERNMENT
3 MAY 1952
DEVELOPMENT DEPARTMENT

From,
Messrs.P.VENKAPPA SETTY & SONS,
by Sri JAMBANNA,proprietor,
Cloth dealers,
HOSPET.

2.5.52

To
The Secretary,
Development Department,
Port St.George,
MADRAS.

48953

DEPUTY SECRETARY TO GOVERNMENT
2 MAY 1952
DEVELOPMENT DEPARTMENT

Dated,the 2nd of May 1952.

The humble petition of MESSRS.P.VENKAPPA SETTY & SONS Cloth dealers, Hospet town, Bellary District, most respectfully shows as follows :---

1. The petitioners are an ancient house of cloth dealers in Hospet town, and they have held and are holding retail cloth dealer licence and Binny Mill cloth quotas for the last 10 to 11 years without any blemish or record against them.

2. While so, by order dated 3-4-1952, L.Dis.1869/51, T.1.,the Collector of Bellary suspended,as an act of punishment, the petitioners' mill cloth quota for a period of one month,for allegedly insisting upon a customer -- one,Sri Sailappa of Hospet Municipal Office -- purchasing a costly variety of Binny cloth in addition to the cheaper variety wanted by him.The said Collector confirmed his own earlier order on a review thereof,being moved thereto by the petitioners.

3. The petitioners appeal against the said order of 3-4-52 and the confirming order of 26-4-52,L.Dis.926/52 T.1.

4. The case of the petitioners is this : They never insisted upon Sri Sailappa purchasing a costly variety of cloth in addition to the cheaper variety wanted by him. The said purchaser wanted credit for his purchases,which the petitioners,having had a previous unsatisfactory experience of such credit facility extended to the said purchaser,refused. The complaint,which is pure falsehood,was made,in spite,for such refusal.

5. The grievance of the petitioners against the order of the Collector is this: The punishment meted out is a denial of natural justice. The Collector never applied the rules of natural justice in making the enquiry. There are two essential principles:

(a) the person affected should be told the nature of the allegation against him : (b) he must be given an opportunity to answer it. So far as (a) is concerned, the petitioners have no grievance. They were informed very early, by notice dated 21-2-1952, of the nature of the complaint against them, and the name also of the complainant. By the said notice they were asked to show cause against the complaint. By the same notice they were permitted to adduce evidence, oral and documentary, on their behalf. The petitioners' grievance is that (b) was not followed. Having promised an enquiry and an opportunity to show cause, the Collector ~~xxxxxxxxx~~ adopted a procedure which failed to give the petitioners the essentials that justice would require and the opportunity which the notice itself promised. After receiving a written explanation from the petitioners, the Collector never fixed a date for enquiry or gave the petitioners an opportunity of adducing their evidence. The petitioners stated in the written explanation that they have evidence, and that they are anxious to adduce the said evidence. The Collector seems to have acted on an enquiry conducted ex parte of which no notice was given to the petitioners. The petitioners were not told who were the witnesses examined by him and what the ~~xxxx~~ witnesses said, and certainly they were not given an opportunity of testing the truth or falsity of the said evidence by subjecting the witnesses to cross examination. The petitioners' evidence in explanation was not received.

6. In as much as the Collector proceeded judicially in enquiring into the allegation., the petitioners submit that it is consonant to justice that such an enquiry should be a proper enquiry ; that the witnesses against the petitioners must be confronted with the petitioners and the petitioners given an opportunity of cross examining them: that the petitioners' oral and documentary evidence in rebuttal or in explanation should be received : that the Collector should come to a proper determination of the truth or otherwise of the complaint only after such proper eqnuriy.

7. For the reasons aforesaid, the petitioners pray:

(a) that the orders of the Collector of Bellary be quashed, and the order of suspension vacated : alternatively,

(b) that the Collector be directed to hold a proper enquiry on a date previously fixed, of which due notice has been given to the petitioners, and after giving an opportunity to the petitioners to adduce their evidence, oral and documentary, and subjecting the witnesses against them to cross examination by the petitioners.

(c) that in the meanwhile, pending disposal of this petition, the order of suspension be kept in suspense, and the petitioners be permitted to purchase their full month's Binny Mill cloth quota. If, in the event, they are found guilty the suspension which is only for one month may be enforced after the disposal of this petition. If the petitioners are guiltless, as these petitioner aver, the suspension order would work harshly against thembecause before prders are passed on this petition, the order would have worked itself out. The appeal itself except as restoring prestige would be infructuous. The petitioners are losing Rs. 2 to 3 thousands by reason of this order.

for which act of justice and mercy, the petitioners will for ever be grateful.

For Messrs.P.VENKAPPA SETTY & SONS

P. Jambanna

(JAMBANNA)

Proprietor.

Address for service:

Messrs.P.Venkappa Setty & Sons,
Cloth merchants,
Hospet.

C/O Sri M.V.Ganapati and Sri M.Raghpati,
Advocates,
379, Esplanade,
MADRAS

Special P Clerk

Dev (M:) Dept

Endt No 48953 M:/52-1 d. 8. 5. 52

Referred to the Collr of Bellary for urgent remarks before 15. 5. 52 thro' the Dee

To the Collr Bellary.

Dee, Impd. Collr's orders, NOTE with ref to the request for stay of H.m.(9&2) 6552 order generally given. 6552 Dis 6552

4

The papers, I see, have been sent to collector & DIG for remark & return before 15-5-52. Today is the 7th Perhaps a stay order may not be of any use in this particular case. But if suspension is for longer periods, a stay order would be justified

T.K. Viswanathan
7/5/52 Ext 79 (152)

SECRETARY TO GOVERNMENT
MAY 1952
DEPARTMENT
DEPUTY SECRETARY TO GOVERNMENT
MAY 1952

54558 5

From Sri D.R.Sundaram, I.A.S.,
Collector, Bellary.

To
The Secretary to Government,
Development Department,
Fort St.George, Madras.
Through
The Director of Controlled Commodities, Madras.

THIRD ASST. SECRETARY TO GOVERNMENT
15 MAY 1952
DEVELOPMENT DEPARTMENT

R.C. 1153/52 T1 Dated 13-5-52

Sir,

Textiles - Mill cloth - Bellary district - Hospet taluk and town - Retail dealer - M/S P.Venkappa Setty and Sons — Stopping mill cloth quotas for one month - appeal to Government - Remarks submitted.

Refce:- Government Development Department Endorsement No.48952/ M-1/52 -1 dated 8.2.52.

The contentions of the appellant in paragraphs 5(b) and 6 of his petition communicated with the Government endorsement cited are baseless as explained below:

In this office Rc.1689/51 T-1 dated 21.2.52 a notice was issued to the appellant detailing the charge against him and directing him to show cause why his mill cloth quotas should not be stopped for two months, for the charge mentioned therein, and he was informed that he could adduce any evidence oral or documentary on his behalf. With reference to this notice the appellant submitted his explanation in his petition dated 27.2.52 but he did not ask for any personal enquiry. His explanation was, therefore, considered in the light of the statements of the complainant and the witness but the complainant was not personally enquired into or heard as he did not ask for it in his written explanation dated 27.2.52. An opportunity to cross-examine the witness as alleged by the appellant was also not given to him as the enquiry was not a judicial one and as the procedure laid down in G.O.Ms.No.3155 dated 9.7.51 in the matter of awarding departmental punishments does not contemplate such cross examination.

3. The points urged by the appellant in paragraphs 1 to 6(a) and 7 do not call for any remarks.

4. The relavant files (L.Dis.1869/51 T-1 dated 3.4.52 containing 24 pages C.F. and six pages N.F. and L.Dis.926/52 -T1 dated 26.4.52 containing eight pages C.F. and four pages N.F.) are submitted for perusal and return when done with.

For Collector.

Encls. 1. L.Dis.1869/51 dated 3.4.52
2. L.Dis.926/52 dated 26.4.52.

Copy submitted to the Secretary to Government Development department Fort St.George, Madras direct for information.

To file

Dev(MI) DP/52

The Dee's remarks may be awaited

D.Dis.Bl.54366/52

Office of the
Director of Controlled Commodities,
Mount road, Madras dt. 17.6.52.

From

Sri V.V. Subramanian, I.C.S.,
Director of Controlled Commodities.

To

The Secretary to Government,
Development Department,
Fort Saint George, Madras.

Dev 6888a MI/52
20/6/52

THIRD ASST. SECRETARY TO GOVERNMENT
24 JUN 1952
DEVELOPMENT DEPARTMENT

Sir,

Sub: Textiles- mill cloth- retail licence- M/s P.Venkappa setty and sons, Hospet town, Bellary District- suspended- appeal.

Ref: 1.Government Endt.No.48952/MI/52-1 dated 8.5.52.
2.From the Collector of Bellary, report Rc.1158/52/J1 dated 13.5.52.

I submit herewith the Collector's report second cited above with all enclosures in original.

There is reason to suspect that the dealer's version may be true. At pages Cf.9 and 11 of the Collector's file L.Dis.1869/51/T1, the complainant and his friend have not given very convincing statements. The term, "I do not remember" is an evasive expression generally. It looks as if the dealer's version may be true. The Textile Inspector's inspection

p.t.o.

8

(M)

report at page 6 C.f. of the file seems to support it.
I recommend that the Collector's order may be set aside.

18/6/52

ks.18.6. For Director of Controlled Commodities.

18/6

18/6

From

Sri. D.R.Sundaram, I.A.S.,
Collector, Bellary.

To
The Secretary to Government
Development Department Fort
St., George, Madras.

R.C.1158/52. T.1. Dated, 5.7.52.

Sir,

Dev 16779 MI
9.7.52

Sub:- Textiles - Mill cloth - Bellary district - Hospet taluk and town - Retail dealer - Sri.P. Venkappa Setty & Sons - Stopping mill cloth quotas for one month - Appeal - Orders requested.

Ref:- 1. Government Development Department Endorsement No. 48952/3 MI/52-1 dated, 22.8.2.52.
2. This office R.C.1158/52. T.1. dated, 13.5.52 and 31.5.52.

I invite attention to the references cited and request that orders passed thereon if any may be communicated to me.

The records submitted with this office reference cited may also be returned if no longer required.

For Collector.

s.b.h. 7/7

D 2232

Dev (Textiles II) Dept

19/1572

11

~~Memo No 46952 III, 52~~

Subs: Textiles – Mill Cloth – Bellary Dt. Hospet Taluk and Town – Retail dealer. ~~Sri~~ P. Venkappa Setty & Sons – Stopping mill cloth quotas for one month – appeal.

PP1-3-Cf — Ref. From ~~Sri~~ P. Venkappa Setty & Sons dt Nil

P3 Cf — From The Collector of Bellary Rc. 1158/52-71 dt 13.5.52

PP7-8-Cf — From The D.C.C – ~~Dis~~. B. ~~Sri~~ 54366/52 dt 17.6.52.

Go R. 000 52 dt 14.7.52

The Govt. ~~Considered the appeal petition of Sri P. Venkappa Setty & Sons and direct~~ direct that the order of The Collector of Bellary ~~to set aside his order dated~~ in Dis. 000 1869/51 T. dt 3.4.52, ~~that Claim for any quota for the said month suspended~~ stopping the quota of ~~Sri~~ P. Venkappa Setty & Sons for one month ~~be set aside~~. The Coller need not however entertain any claim for the quota for the said month.

(Cmpd) 15/7

The Coller Bellary
" DCC.

To Sri Venkappa Setty & Sons
Retail dealer
Hospet Bellary.

14.7.52

1752

86382

From

Sri. D.R.Sundaram,I.A.S.,
Collector, Bellary.

To
The Secretary to Government
Development Department Fort St.,
George, Madras.

R.C. 1158/52. T.1. Dated, 25.7.52..

85367

Sir,

Sub:- Textiles - Mill cloth - Bellary district - Hospet taluk and town - Retail dealer - Sri.P.Venkappa Setty & Sons Stopping mill cloth quotas for one month - Appeal Return of records.

Ref:- 1. Government Development Depart Endorsement No. 48952/MI/52-1 dated, 8.5.52.
2. This office R.C.1158/52 T1 dated 13.6.52.
3. G.O. Rt. No. 521 Development Department Dt.14.7.52.

The following files submitted to Government through the Director of Controlled Commodities, Madras with this office reference second cited, have not been received back so far. They may be returned if they are no longer required.

1. L.Dis. 1869/51 T1 dated 3.4.52 containing 24 pages C.F. and 6 pages N.F.
2. L:Dis. 926/52 T1 dated 26.4.52 containing 8 pages C.F. and 4 pages N.F.

FOR COLLECTOR.

S.B.H. 26/7

Copy to the Director of Controlled Commodities, Madras with reference to his No.RC. B1/54366/52 dt. 26.5.52. He is requested to return the files if they are received in his office.

Dev (MI) Dept

Memo No. 86382 MI/52-1 d) 29.7.52

Sub: Textiles - M.M Clot - Bellary St. Hospet Tq. and Town - Retail dealers - S. P. Nakappa - Setty & Sons - Stopping with Cloth Collecton Office records - Returned

Ref: From the Collecta Bellary Rc. 1158/52 T.I. d) 5.7.52 and 25.7.52 Govt No 521 Dev d) 14.7.52

—

The Office records, Nos 926/52 T.I d) 26.4.52 and 1869/61 TI d) 3.4.52 of the Collecta of Bellary are returned herewith

Ro 28/T/52 29782

29/7/52

P) P.i :: (X)
P.A.C.T
P.II 07 (X)

(P)

(07)

From the Colln of Bellary w.r. records at (P) & (M) in Original.

Development Department

C.No.48953 MI/52

Sub: TEXTILES - Mill Cloth.- Stoppage of quota - Appeal.

Ref: From M/s. P.Venkappa Chetty & Sons, Hospet d/2/5/52
From the Collector of Bellary No.1158/52 T1 d/13/5/52.
From the D.C.C. No.B1-54366/52 d/17/6/52.

To A.S.

The current file may be perused.

2.One B.Srisailappa complained that the petitioners insisted that shirting cloth costing Rs.2-8-0 a yard should be taken by him along with shirting cloth costing Rs.2/- a yard which he wanted to purchase. The petitioner reported that Srisailappa wanted the cloth on credit, that cloth was therefore refused and that they were not insisting any purchasers to buy costly cloth along with low priced cloth. On inspection of the shop it was noticed that large stocks of costlier cloth was lying unsold and that there was no stock of cheap cloth. One Syed Ali deposed that it was a fact that the petitioner insisted Srisailappa to take costly cloth with cheap cloth and that he did not remember the fact that Srisailappa asked the cloth on credit. The inspection of accounts showed that Sri sailappa purchased cloth on one occasion on credit. Charges were framed against the dealer to show cause why his quota should not be stopped for two months. The petitioner explained that they refused to sell cloth to Sri sailappa on credit, as he was irregular in payment of money due from him on a former occasion; that they were preapred to produce bills to support this statement and that they were not insisting purchasers to take costly cloth along with cheap cloth. The Collector however decided that the charge was proved and stopped the quota for one month from about 6/4/52.

The petitioners have now appealed to the Govt. The new points in the appeal are - that the petitioners were not given an opportunity to adduce evidence oral and documentary on their behalf even though they stated

in their written explanation that they had evidence and that they were also not given an opportunity to cross examine witnesses. They therefore request that the Collector's order be vacated or that the Collector may be directed to hold a proper enquiry and that meanwhile the Collector's order may be stayed.

The Govt. have already decided that no stay is called for in this case.

The Collector reports that the petitioner did not ask for any personal enquiry and that his explanation was therefore considered in the light of the statements made by the complainants and the witnesses and orders passed. The Collector further says that no opportunity to cross examine the witness was given as the enquiry was not a judicial one.

The D.C.C. reports that as the witness deposed that he did not remember whether the petitioner asked for credit sale, the dealers' version may be true and that the Textile Inspector's inspection notes seem to support it. He therefore recommends that the Collector's order may be set aside.

It is submitted that the period of stoppage of quota was over on about 6/5/52 and that nothing can therefore be done now in the matter. Further the witness clearly deposed that the petitioner refused cloth for the reason that Srisailappa was not willing to take costly cloth with cheap cloth. Perhaps the petitioner refused cloth for both the reasons that Srisailappa was not willing to take costly cloth also and that he also asked the cloth to be sold on credit. In the circumstances it is for orders whether there is any need to interfere.

3752

3752

At the present stage, no interference is called for, yet to remove the stigma of suspension the Collr's order may be set aside

+895
4/5/17

said the petitioners may be
held that he without claim
for any quota for the said
months

S Sundaram
4.7.5.2

V Krishnaswamy
8/7/52 ms (9 & 2)

To DS

draft order is submitted.

11/7/52

11/7/52 DS 8/7
12.7.52